

# Senate File 428 - Introduced

SENATE FILE 428

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## A BILL FOR

1 An Act establishing a public building rehabilitation income tax  
2 credit.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 2.48, subsection 3, paragraph e, Code  
2 2013, is amended by adding the following new subparagraph:

3 NEW SUBPARAGRAPH. (10) Public property rehabilitation tax  
4 credits under chapter 404C.

5 Sec. 2. NEW SECTION. **404C.1 Public property rehabilitation**  
6 **tax credit — definitions.**

7 1. A public property rehabilitation tax credit, subject  
8 to the availability of the credit, is granted against the tax  
9 imposed under chapter 422, division II, III, or V, or chapter  
10 432, for the substantial rehabilitation of eligible property  
11 located in this state as provided in this chapter.

12 2. For purposes of this chapter, unless the context  
13 otherwise requires:

14 *a. "Eligible property"* means vacant property containing  
15 permanent improvements, including structures, that was  
16 previously owned by the United States, this state, or  
17 a political subdivision of this state for use by such  
18 governmental entity. *"Political subdivision"* includes a city,  
19 county, or school district.

20 *b. "Placed in service"* means the same as used in section 47  
21 of the Internal Revenue Code.

22 *c. "Qualified rehabilitation costs"* means expenditures  
23 made for the rehabilitation of eligible property and includes  
24 qualified rehabilitation expenditures as defined in section 47  
25 of the Internal Revenue Code.

26 (1) Qualified rehabilitation costs include amounts if they  
27 are properly includable in computing the basis for tax purposes  
28 of the eligible property.

29 (2) Amounts treated as an expense and deducted in the  
30 tax year in which they are paid or incurred and amounts that  
31 are otherwise not added to the basis for tax purposes of the  
32 eligible property are not qualified rehabilitation costs.

33 (3) Amounts incurred for architectural and engineering  
34 fees, site survey fees, legal expenses, insurance premiums,  
35 development fees, and other construction-related costs are

1 qualified rehabilitation costs to the extent they are added to  
2 the basis for tax purposes of the eligible property.

3 (4) Costs of sidewalks, parking lots, and landscaping do not  
4 constitute qualified rehabilitation costs.

5 *d. "Rehabilitation period"* means the period of time during  
6 which an eligible property is rehabilitated commencing from  
7 the date on which the first qualified rehabilitation cost is  
8 incurred and ending with the end of the taxable year in which  
9 the property is placed in service. A project's rehabilitation  
10 period may include dates that precede approval of a project  
11 under section 404C.3, but any costs incurred prior to such  
12 approval must be qualified rehabilitation costs.

13 Sec. 3. NEW SECTION. 404C.2 Amount of credit.

14 1. The amount of the credit equals twenty-five percent  
15 of the qualified rehabilitation costs incurred for the  
16 rehabilitation of the eligible property if the total amount  
17 of qualified rehabilitation costs incurred for rehabilitation  
18 of the property equals or exceeds twenty-five percent of the  
19 assessed value, excluding the land, prior to rehabilitation.  
20 However, the amount of the credit shall be reduced by  
21 the amount of a historic preservation and cultural and  
22 entertainment district tax credit claimed for the same eligible  
23 property under chapter 404A for the same tax year, but not to  
24 an amount less than zero.

25 2. For purposes of individual and corporate income taxes  
26 and the franchise tax, the increase in the basis of the  
27 rehabilitated property that would otherwise result from the  
28 qualified rehabilitation costs shall be reduced by the amount  
29 of the credit computed under this chapter.

30 Sec. 4. NEW SECTION. 404C.3 Approval of rehabilitation  
31 project.

32 1. *a.* In order for costs of a rehabilitation project to  
33 qualify for a public property rehabilitation tax credit, the  
34 rehabilitation project must receive approval from the state  
35 historic preservation office of the department of cultural

1 affairs.

2     *b.* Applications for approval from the state historic  
3 preservation office of the department of cultural affairs  
4 shall be on forms approved by the state historic preservation  
5 office and shall contain information as required by the state  
6 historic preservation office. The information shall at least  
7 include the approximate date of the start of rehabilitation,  
8 the approximate date of completion, as well as the cost.

9     *c.* The approval process shall not exceed ninety days  
10 beginning from the date on which a completed application is  
11 received by the state historic preservation office. After the  
12 ninety-day limit, the rehabilitation project is deemed to be  
13 approved unless the state historic preservation office has  
14 denied the application or contacted the applicant for further  
15 information regarding the application.

16     2. The state historic preservation office shall establish  
17 selection criteria and standards for rehabilitation projects  
18 involving eligible property.

19     3. *a.* A rehabilitation project for which the state  
20 historic preservation office has reserved tax credits pursuant  
21 to section 404C.4 shall begin rehabilitation of the property  
22 before the end of the fiscal year in which the project  
23 application was approved and for which the tax credits were  
24 reserved.

25     *b.* The eligible property shall be placed in service within  
26 sixty months of the date on which the project application was  
27 approved under this section.

28     4. A rehabilitation project that does not meet the  
29 requirements of subsection 3 is subject to revocation,  
30 repayment, or recapture of tax credits reserved or approved  
31 pursuant to this chapter.

32     Sec. 5. NEW SECTION. **404C.4 Project completion and tax**  
33 **credit certification — credit refund or carryforward.**

34     1. Upon completion of the rehabilitation project, a  
35 certification of completion must be obtained from the state

1 historic preservation office of the department of cultural  
2 affairs. A completion certificate shall identify the person  
3 claiming the tax credit under this chapter and the qualified  
4 rehabilitation costs incurred during the rehabilitation period.

5 2. After verifying the eligibility for the tax credit,  
6 the state historic preservation office shall issue a public  
7 property rehabilitation tax credit certificate to be attached  
8 to the person's tax return. The tax credit certificate shall  
9 contain the taxpayer's name, address, tax identification  
10 number, the date of project completion, the amount of credit,  
11 other information required by the department of revenue,  
12 and a place for the name and tax identification number of a  
13 transferee and the amount of the tax credit being transferred.

14 3. A person receiving a public property rehabilitation tax  
15 credit under this chapter which is in excess of the person's  
16 tax liability for the tax year is entitled to a refund. Any  
17 credit in excess of the tax liability shall be refunded with  
18 interest computed under section 422.25. In lieu of claiming  
19 a refund, a taxpayer may elect to have the overpayment shown  
20 on the taxpayer's final, completed return credited to the tax  
21 liability for the following year.

22 4. *a.* The total amount of tax credits that may be approved  
23 for a fiscal year beginning on or after July 1, 2013, including  
24 those amounts reserved by the state historic preservation  
25 office of the department of cultural affairs, shall not exceed  
26 forty-five million dollars.

27 *b.* Of the tax credits approved for a fiscal year under this  
28 chapter, the amount of the tax credits shall be allocated as  
29 follows:

30 (1) Fifty percent of the dollar amount of tax credits shall  
31 be allocated for purposes of projects located in counties with  
32 a population of one hundred twenty thousand or less according  
33 to the most recent federal decennial census.

34 (2) Fifty percent of the dollar amount of tax credits shall  
35 be allocated for purposes of projects located in counties with

1 a population that exceeds one hundred twenty thousand according  
2 to the most recent federal decennial census.

3     *c.* (1) If, in any fiscal year, an amount of tax credits  
4 allocated pursuant to paragraph "b", subparagraph (1), goes  
5 unclaimed, the amount of the unclaimed tax credits shall,  
6 during the same fiscal year, be reallocated to projects  
7 described in paragraph "b", subparagraph (2).

8     (2) If, in any fiscal year, an amount of tax credits  
9 allocated pursuant to paragraph "b", subparagraph (2), goes  
10 unclaimed, the amount of the unclaimed tax credits shall,  
11 during the same fiscal year, be reallocated to projects  
12 described in paragraph "b", subparagraph (1).

13     *d.* The departments of cultural affairs and revenue shall  
14 each adopt rules to jointly administer this subsection and  
15 shall provide by rule for the method to be used to determine  
16 for which fiscal year the tax credits are available.

17     *e.* Public property rehabilitation tax credits shall not be  
18 reserved for more than three years.

19     5. *a.* Tax credit certificates issued under this chapter may  
20 be transferred to any person or entity.

21     *b.* Within ninety days of transfer, the transferee must  
22 submit the transferred tax credit certificate to the department  
23 of revenue along with a statement containing the transferee's  
24 name, tax identification number, and address, and the  
25 denomination that each replacement tax credit certificate is  
26 to carry and any other information required by the department  
27 of revenue.

28     *c.* Within thirty days of receiving the transferred tax  
29 credit certificate and the transferee's statement, the  
30 department of revenue shall issue one or more replacement  
31 tax credit certificates to the transferee. Each replacement  
32 certificate must contain the information required under  
33 subsection 2.

34     *d.* Tax credit certificate amounts of less than the minimum  
35 amount established by rule of the department of revenue shall

1 not be transferable.

2     *e.* A tax credit shall not be claimed by a transferee  
3 under this chapter until a replacement tax credit certificate  
4 identifying the transferee as the proper holder has been  
5 issued.

6     *f.* The transferee may use the amount of the tax credit  
7 transferred against the taxes imposed under chapter 422,  
8 divisions II, III, and V, and chapter 432 for any tax year the  
9 original transferor could have claimed the tax credit. Any  
10 consideration received for the transfer of the tax credit shall  
11 not be included as income under chapter 422, divisions II, III,  
12 and V. Any consideration paid for the transfer of the tax  
13 credit shall not be deducted from income under chapter 422,  
14 divisions II, III, and V.

15     Sec. 6. NEW SECTION. 404C.5 Economic impact —  
16 recommendations.

17     1. The department of cultural affairs, in consultation  
18 with the department of revenue, shall report to the general  
19 assembly and the legislative services agency on the overall  
20 economic impact to the state of the rehabilitation of eligible  
21 properties.

22     2. The report shall be filed annually by the department of  
23 cultural affairs and shall include but is not limited to data  
24 on the number and potential value of rehabilitation projects  
25 begun during the latest twelve-month period, the total public  
26 property rehabilitation tax credits originally granted during  
27 that period, the potential reduction in state tax revenues as a  
28 result of all tax credits still unclaimed, and the potential  
29 increase in local property tax revenues as a result of the  
30 rehabilitated projects.

31     3. The department of cultural affairs, to the extent it  
32 is able, shall provide recommendations on whether a limit on  
33 tax credits should be established, the need for a broader or  
34 more restrictive definition of eligible property, and other  
35 adjustments to the tax credits under this chapter.

1     Sec. 7. NEW SECTION.   422.10A   Public property rehabilitation  
2 tax credit.

3     1. The taxes imposed under this division, less the credits  
4 allowed under section 422.12, shall be reduced by a public  
5 property rehabilitation tax credit equal to the amount as  
6 computed under chapter 404C for rehabilitating eligible  
7 property. Any credit in excess of the tax liability shall be  
8 refunded or credited to the following year, as provided in  
9 section 404C.4, subsection 3.

10    2. An individual may claim a public property rehabilitation  
11 tax credit allowed a partnership, limited liability company,  
12 S corporation, estate, or trust electing to have the income  
13 taxed directly to the individual. The amount claimed by the  
14 individual shall be based upon the pro rata share of the  
15 individual's earnings of a partnership, limited liability  
16 company, S corporation, estate, or trust except when low-income  
17 housing tax credits authorized under section 42 of the Internal  
18 Revenue Code are used to assist in the financing of the housing  
19 development, in which case the amount claimed by a partner if  
20 the business is a partnership, a shareholder if the business  
21 is an S corporation, or a member if the business is a limited  
22 liability company shall be based on the amounts designated by  
23 the eligible partnership, S corporation, or limited liability  
24 company. For tax credits reserved for a fiscal year beginning  
25 on or after July 1, 2013, the amount claimed by a partner if  
26 the business is a partnership, a shareholder if the business  
27 is an S corporation, or a member if the business is a limited  
28 liability company shall be based on the amounts designated by  
29 the eligible partnership, S corporation, or limited liability  
30 company.

31    3. For purposes of this section, "*eligible property*" means  
32 the same as defined in section 404C.1.

33    Sec. 8. Section 422.33, Code 2013, is amended by adding the  
34 following new subsection:

35    NEW SUBSECTION.   11. a. The taxes imposed under this



1 division shall be reduced by a public property rehabilitation  
2 tax credit equal to the amount as computed under chapter 404C  
3 for rehabilitating eligible property. Any credit in excess  
4 of the tax liability shall be refunded or credited to the  
5 following year, as provided in section 404C.4, subsection 3.

6 *b.* For purposes of this subsection, "*eligible property*"  
7 means the same as defined in section 404C.1.

8 Sec. 9. Section 422.60, Code 2013, is amended by adding the  
9 following new subsection:

10 NEW SUBSECTION. 4A. *a.* The taxes imposed under this  
11 division shall be reduced by a public property rehabilitation  
12 tax credit equal to the amount as computed under chapter 404A  
13 for rehabilitating eligible property. Any credit in excess  
14 of the tax liability shall be refunded or credited to the  
15 following year, as provided in section 404C.4, subsection 3.

16 *b.* For purposes of this subsection, "*eligible property*"  
17 means the same as defined in section 404C.1.

18 Sec. 10. NEW SECTION. 432.12N **Public property**  
19 **rehabilitation tax credit.**

20 1. The tax imposed under this chapter shall be reduced by a  
21 public property rehabilitation tax credit equal to the amount  
22 as computed under chapter 404C for rehabilitating eligible  
23 property. Any credit in excess of the tax liability shall be  
24 refunded or credited to the following year, as provided in  
25 section 404C.4, subsection 3.

26 2. For purposes of this section, "*eligible property*" means  
27 the same as defined in section 404C.1.

28 EXPLANATION

29 This bill establishes a public property rehabilitation tax  
30 credit under new Code chapter 404C.

31 The public property rehabilitation tax credit is granted  
32 against the tax imposed under Code chapter 422, division II  
33 (personal net income tax), III (business tax on corporations),  
34 or V (financial institutions tax), or Code chapter 432  
35 (insurance companies tax), for the substantial rehabilitation

1 of eligible property located in this state. The bill defines  
2 "eligible property" as vacant property containing permanent  
3 improvements, including structures, that was previously owned  
4 by per bill the United States, this state, or a political  
5 subdivision of this state for use by such governmental entity.

6 Under the bill, the amount of the credit equals 25 percent  
7 of the qualified rehabilitation costs, as defined in the bill,  
8 incurred for the rehabilitation of the eligible property if  
9 the total amount of qualified rehabilitation costs incurred  
10 for rehabilitation of the property equals or exceeds 25  
11 percent of the assessed value, excluding the land, prior to  
12 rehabilitation. The bill provides, however, that the amount  
13 of the credit shall be reduced by the amount of a historic  
14 preservation and cultural and entertainment district tax credit  
15 claimed for the same eligible property under Code chapter 404A  
16 for the same tax year, but not to an amount less than zero.

17 In order for costs of a rehabilitation project to qualify for  
18 a public property rehabilitation tax credit, the rehabilitation  
19 project must receive approval from the state historic  
20 preservation office of the department of cultural affairs. The  
21 bill establishes the procedure for approval and authorizes  
22 the state historic preservation office to establish selection  
23 criteria and standards for rehabilitation projects involving  
24 eligible property.

25 Under the bill, a rehabilitation project for which the  
26 state historic preservation office has reserved tax credits  
27 shall begin rehabilitation of the property before the end of  
28 the fiscal year in which the project application was approved  
29 and for which the tax credits were reserved. In addition, the  
30 eligible property must be placed in service within 60 months of  
31 the date on which the project application was approved. If a  
32 rehabilitation project does not meet these requirements, it is  
33 subject to revocation, repayment, or recapture of tax credits  
34 reserved or approved.

35 The bill establishes the procedure for acquiring a

1 completion certificate and the tax credit certificate upon  
2 completion of the rehabilitation project. The bill allows a  
3 person receiving a public property rehabilitation tax credit  
4 which is in excess of the person's tax liability for the tax  
5 year to receive a refund or to have the excess amount carried  
6 forward to the following year.

7 The bill provides that the total amount of tax credits that  
8 may be approved for a fiscal year beginning on or after July 1,  
9 2013, including those amounts reserved by the state historic  
10 preservation office of the department of cultural affairs,  
11 shall not exceed \$45 million. Of the tax credits approved for  
12 a fiscal year, the amount of the tax credits must be allocated  
13 as follows: (1) 50 percent of the dollar amount of tax credits  
14 shall be allocated for purposes of projects located in counties  
15 with a population of 120,000 or less, and (2) 50 percent of the  
16 dollar amount of tax credits shall be allocated for purposes  
17 of projects located in counties with a population that exceeds  
18 120,000. The bill also provides for the reallocation of  
19 unclaimed tax credits in a fiscal year.

20 The bill allows public property rehabilitation tax credit  
21 certificates to be transferred to any person or entity.

22 The bill requires the department of cultural affairs, in  
23 consultation with the department of revenue, to report to the  
24 general assembly and the legislative services agency on the  
25 overall economic impact to the state of the rehabilitation of  
26 eligible properties under new Code chapter 404C, requires the  
27 report to be filed annually, and authorizes the department of  
28 cultural affairs to make recommendations relating to the public  
29 property rehabilitation tax credits.

30 The bill includes the public property rehabilitation tax  
31 credit as part of the legislative tax expenditure committee's  
32 list of tax expenditures to be reviewed in 2015.